

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

HAROLD TEACUTTER and ERIN  
TEACUTTER,

Plaintiffs,

Civil No. 07-1512-HA

v.

OPINION AND ORDER

DELTA FUNDING CORPORATION dba  
Fidelity Mortgage, a New York corporation,  
and FIDELITY AND DEPOSIT COMPANY  
OF MARYLAND, a foreign corporation,

Defendants.

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HAGGERTY, Chief Judge:

Before the court is defendants' Motion to Compel Arbitration and Dismiss or Stay all Proceedings [6]. After considering the arguments and evidence before the court, defendants' motion is granted.

Plaintiffs Harold and Erin Teacutter are homeowners in Canby, Oregon. In September 2006, they refinanced their home with Delta Funding Corporation (Delta). In September 2007,

the Teacutters filed suit against Delta and its surety, Fidelity and Deposit Company of Maryland (Fidelity). The Teacutters assert a number of state and federal claims against Delta and Fidelity, all of which arise from allegations of fraud related to the mortgage transaction with Delta.

"The arbitrability of a particular dispute is a threshold issue to be decided by the courts." *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1268 (9th Cir. 2006) (en banc). Once a particular dispute has been deemed arbitrable, all aspects of the dispute, including a wide variety of "gateway procedural disputes" are properly raised before an arbitrator, and not the courts. *See Howsam v. Dean Witter Reynolds, Inc.*, 537 U.S. 79, 84-85 (2002).

Here, the parties agree that they entered into an arbitration agreement executed on September 8, 2006, governing "any claim, dispute or controversy between [the Teacutters] and [Delta] relating to the Loan."<sup>1</sup> Plaintiffs do not challenge the arbitrability of this matter, and the issues raised in their brief are thus properly addressed to the arbitrator, and not to this court. Further, because this proceeding involves "issue[s] referable to arbitration" it is stayed pending resolution of the arbitration. *See* 9 U.S.C. § 3.

For the foregoing reasons, defendants' motion [6] is GRANTED, and the case is STAYED pending arbitration..

IT IS SO ORDERED.

DATED this 8 day of January, 2008.

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/s/ Ancer L. Haggerty  
Ancer L. Haggerty  
United States District Judge

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<sup>1</sup> The arbitration agreement is attached to plaintiffs' response to the motion to compel [8].